

Susan E. Coleman (SBN 171832)
E-mail: scoleman@bwsllaw.com
Carmen M. Aguado (SBN 291941)
E-mail: caguado@bwsllaw.com
BURKE, WILLIAMS & SORESENSEN, LLP
444 South Flower Street, Suite 2400
Los Angeles, CA 90071-2953
Tel: 213.236.0600 Fax: 213.236.2700

Attorneys for Defendants
THE GEO GROUP, INC., CITY OF ADELANTO,
CAMPOS, and DIAZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OMAR ARNOLDO RIVERA
MARTINEZ; ISAAC ANTONIO
LOPEZ CASTILLO; JOSUE
VLADIMIR CORTEZ DIAZ; JOSUE
MATEO LEMUS CAMPOS;
MARVIN JOSUE GRANDE
RODRIGUEZ; ALEXANDER
ANTONIO BURGOS MEJIA; LUIS
PEÑA GARCIA; JULIO CESAR
BARAHONA CORNEJO, as
individuals,

Plaintiffs,

v.

THE GEO GROUP, Inc., a Florida
corporation; the CITY OF
ADELANTO, a municipal entity; GEO
LIEUTENANT DIAZ, sued in her
individual capacity; GEO
SERGEANT CAMPOS, sued in his
individual capacity; SARAH JONES,
sued in her individual capacity; THE
UNITED STATES OF AMERICA;
CORRECT CARE SOLUTIONS,
INC.; and DOES 1-10, individuals,

Defendants.

Case No. 5:18-cv-01125-SP

**DECLARATION OF LEO
MCCUSKER IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, SUMMARY
ADJUDICATION**

Magistrate
Judge:

Honorable Sheri Pym

1 I, Leo McCusker, declare as follows:

2 1. I have personal knowledge of the matters set forth herein, except as to
3 those matters stated on information and belief, and would competently testify
4 thereto if called and sworn as a witness.

5 2. I am employed by The GEO Group, Inc. ("GEO") as the Training
6 Administrator at the Adelanto Detention Center ("Facility"). As the Training
7 Administrator, I am responsible for the organization, implementation, coordination,
8 and evaluation of internal and external training programs for GEO staff, which
9 includes providing training on GEO's policies and procedures. As part of this role, I
10 am familiar with GEO's policies, practices, and training.

11 3. GEO has policies and procedures regarding the use of force, placement
12 of detainees in restrictive housing units, detainee access to telephones, and
13 emergency plans, including responding to hunger strikes. When an officer is
14 initially hired, he/she must complete pre-service training, which consists of 136-
15 hours of training on various policies and procedures in a classroom setting. The
16 policies and procedures are distilled into PowerPoint presentations, and there are a
17 number of exams to evaluate the officer's knowledge of the policies and
18 procedures. New hires are also trained on the constitutional rights of detainees.

19 4. Thereafter, officers are required to complete 40 hours of on-the-job
20 training. Annually, officers are required to complete 40-hours of in-service training.

21 5. Prior to being promoted to a supervisory position or assigned as a
22 transportation officer (i.e. positions that permits an officer to use and carry
23 chemical agents), an officer is required to complete additional training that builds
24 on the pre-service training. The additional training includes training specific to the
25 use chemical agents (e.g. pepper spray or OC spray) and covers topics such as the
26 use of force requirements that permit the use of chemical agents, the
27 decontamination process, and the effects of chemical agents on the person. The
28 training includes instruction in a classroom setting and, then, direct exposure to

1 chemical agents. Thereafter, supervisors are required to complete monthly training
2 on various topics (e.g. completing evaluations and use of force report writing).

3 6. Based on information and belief, GEO creates its policies to be
4 consistent with the Performance-Based National Detention Standards (standards
5 created by U.S. Immigration and Customs Enforcement (“ICE”) that relate to the
6 safety, security and conditions of confinement for detainees) and Peace Officer
7 Standards and Training.

8 7. For example, GEO teaches its officers to only force as a last alternative
9 after all other reasonable efforts to resolve the situation have failed. Officers are
10 trained to on the “Use-of-Force Continuum,” which is a model used to illustrate the
11 levels of force staff may use to gain control of a detainee. The levels that are
12 relevant to the Facility are as follows:

- 13 a. Staff presence without action;
- 14 b. Verbal commands;
- 15 c. Soft techniques (techniques from which there is minimal chance of
16 injury; e.g., grasping, empty-hand, "come-along" holds, using impact
17 weapons for holds, pressure to pressure points, chemical agents); and
- 18 d. Hard techniques (techniques where there is a greater possibility of
19 injury; e.g., "take-downs" or striking using impact weapons, such as
20 deploying chemical agents, expandable batons, straight batons,
21 authorized less-lethal devices, and specialty impact weapons).

22 8. Per GEO policy, the use of chemical agents is authorized when, in
23 pertinent part, a detainee cannot be approached without danger to self or others and
24 it is determined that a delay in bringing the situation under control would constitute
25 a serious hazard to the detainee or others, or would result in a major disturbance or
26 serious property damage. Officers are trained that chemical agents may be useful to
27 control or quell a disturbance that is likely to develop into a serious disorder. When
28 a detainee has been subdued through the use of a chemical agent, staff will make

1 physical contact with the detainee and staff are expected to maintain control of the
2 situation. The detainee will then be taken into custody, handcuffed, and control
3 holds or other restraints devices (such as leg chains or belly chains) can be utilized
4 based on the situation. The detainee will then be escorted to the appropriate holding
5 area for processing.

6 9. Additionally, a detainee that has come into contact with a chemical
7 agent will be decontaminated/cleaned as soon as reasonably possible by flushing
8 the contaminated area with generous amounts of water for 5 to 10 minutes or until
9 the irritation is gone. This can be done in a shower, for example. Thereafter, the
10 detainee is examined by the medical unit that is staffed by a third party contractor.
11 In 2017, the third party contractor was Correction Care Solutions.

12 10. Officers are trained to document all incidents involving the use of
13 force, and the Shift Supervisor will complete a "Use of Force/Restraints Report" to
14 document the use of force or chemical agents. Following any incident involving the
15 use of force, the Facility Administrator, Assistant Facility Administrator, Captain,
16 Health Services Administrator and the Field Office Director's designee shall meet
17 and review the incident.

18 11. The review completed by supervisory staff is intended to (a) assess the
19 reasonableness of the actions taken by staff (e.g., if the force used was appropriate
20 and in proportion to the detainee's actions) and (b) confirm the actions conform to
21 GEO's policies and procedures. During pre-service training, staff is made aware
22 that if they fail to comply with GEO's policies and procedures, they will be
23 disciplined. Depending on the severity of the infraction, the discipline could result
24 in termination. GEO's Use of Force policy is attached to the Appendix of Exhibits
25 as Exhibit "H."

26 12. Pursuant to GEO policy, a detainee may be placed in administrative
27 segregation when the detainee is awaiting an investigation or a hearing for a
28 violation of facility rules. This is not a punitive measure. A written order shall be

1 completed and approved by a Shift Supervisor before a detainee is placed in
2 administrative segregation, except when exigent circumstances make this
3 impracticable.

4 13. A detainee may be placed in Disciplinary Segregation only after a
5 finding by the Institution Disciplinary Panel (IDP) or equivalent that the detainee is
6 guilty of a high level prohibited act or rule violation. A written order detailing the
7 reasons for placing the detainee in disciplinary segregation shall be completed and
8 signed by the Disciplinary Hearing Officer before a detainee is placed in
9 disciplinary segregation. A copy of the order shall be given to the detainee within
10 24 hours with limited exceptions. This procedure is followed to ensure detainees are
11 given due process. GEO's Restrictive Housing Units – Detainee Access to
12 Telephone policy is attached to the Appendix of Exhibits as Exhibit "I."

13 14. Officers are trained that detainees shall have reasonable and equitable
14 access to telephones to maintain essential community and legal contacts, unless
15 such access is controlled as part of the disciplinary or administrative segregation
16 process. The facility shall not restrict the number of calls a detainee places to
17 his/her legal representatives, nor limit the duration of such calls by rule or
18 automatic cut-off, *unless* necessary for security purposes or to maintain orderly and
19 fair access to telephones. Under no circumstance is a detainee permitted to make or
20 be involved in a "three-way" call. Detainees are made aware that three-way calls
21 are prohibited when they arrive at the Facility. GEO's Communication, Mail, And
22 Visitation policy is attached to the Appendix of Exhibits as Exhibit "J."

23 15. Per GEO policy, officers are also trained to identify any detainee who
24 may use a hunger strike to resolve personal issues. Officers are instructed to attempt
25 to negotiate with the individual or key leader in a group to discontinue the proposed
26 Hunger Strike. If negotiations fail, the detainee(s) are isolated from the General
27 Population and placed in Medical. If the group is too large, the detainee(s) should
28 be taken to an alternative housing unit or an area where food intake can be

1 monitored. GEO's Emergency Plans Manual – Hunger Strike Response Plan is
2 attached to the Appendix of Exhibits as Exhibit "K."

3 16. Based upon information and belief, I am not aware of any information
4 that would demonstrate GEO has unconstitutional or deficient policies or training
5 on use of force. If GEO became aware of any situations indicating that a policy or
6 practice needed to be updated, those changes would be made.

7 I declare under penalty of perjury under the laws of California and the United
8 States of America that the foregoing is true and correct.

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10 Executed on November 11 2019, at Adelanto, California.

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13 LEO MCCUSKER
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